

**Before the
Federal Communications Commission
Washington, DC 20554**

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| In the Matter of |) | |
| |) | |
| Implementing Kari's Law and Section 506 of RAY BAUM'S Act |) | PS Docket No. 18-261 |
| |) | |
| Inquiry Concerning 911 Access, Routing, and Location in Enterprise Communications Systems |) | PS Docket No. 17-239 |
| |) | |

To: The Commission

**COMMENTS OF
THE BOULDER REGIONAL EMERGENCY TELEPHONE SERVICE AUTHORITY**

The Boulder Regional Emergency Telephone Service Authority ("BRETSA"), by its attorney, hereby submits its Comments on the Commission's September 26, 2018 Notice of Proposed Rulemaking in the above-referenced proceeding ("NPRM").¹

I. BRETSA Supports the Commission's Proposed Requirements Generally, Subject to State and Local Authority to Approve Broad and Narrow Exceptions.

A. Standards for MLTS Delivery of Caller (Station) ALI Data Are Essential.

The delivery of 9-1-1 Calls from MLTS without caller location data is a daily occurrence for the BRETSA-supported PSAPs. Such calls are received from hotels, hospitals, nursing homes, government offices and large companies.

When an individual calls 9-1-1 from a structure, whether a single-family home, apartment, commercial or industrial building, a dispatcher will not only ask them their location (address and location within a larger building), they will ask which entrance is closest to the caller's location (if in a large building), if there is someone the caller can send to the street to flag down the First Responders and guide them to the caller's or subject's location. Even if the caller

¹ BRETSA is a Colorado 9-1-1 Authority which establishes, collects and distributes the Colorado Emergency Telephone Surcharge to fund 9-1-1 service in Boulder County, Colorado.

is the subject and is injured or ill, the dispatcher will ask if they can unlock the door, and even if they can gather their medications so the First Responders can review them. Callers to 9-1-1 are not always able to provide this information, particularly if they are themselves in need of medical attention. Fire and Medical First Responders typically travel to the scene of the incident in teams, and those not driving the emergency vehicles will often review Pre-plans² and plan the route through the building to the caller's/subject's location, if known.

One urgent care provider routes calls from all of its Denver-Boulder Metropolitan Area Urgent Care Centers to an in-house call-center in Denver. Personnel at the in-house call center determine whether to relay the call information to a PSAP, and must use a 10-digit PSAP administrative telephone number for PSAPs located outside Denver. Because the calls are made to administrative numbers, no ANI or ALI data is provided the PSAP.³ The challenges posed by MLTS serving facilities in different public safety/PSAP jurisdictions is even more complicated in the case of MLTS serving facilities in different states, and even telecommuting workers.

BRETSA thus generally supports the MLTS 9-1-1 rules proposed by the Commission (“Rules”) and the establishment of basic standards for MLTS and 9-1-1.

B. State Authority Over Civil Liability Arising From Violation Of MLTS 9-1-1 Rules, Or Granting Immunity Therefrom, Must Be Expressly Preserved.

BRETSA does not here dispute the Commission's jurisdiction and authority to adopt the Rules, but does note that 9-1-1 Calls are Intrastate Calls within the jurisdiction of the states. The states have jurisdiction over matters of public safety.

² Pre-plans are essentially building floor plans, with information extraneous to emergency response removed. Information is also added or highlighted, such as planned positioning of fire apparatus, sprinkler system valves, and entrances.

³ PSAPs regularly receive 9-1-1 calls from urgent care centers, emergency rooms, and similar facilities for *law* response to assist in handling aggressive or violent patients under the influence of alcohol or drugs, who security personnel are unable to adequately handle. BRETSA is aware of utilities with stations in facilities throughout the Denver Metro Area all connected to an MLTS in its Denver offices. However its system is configured to route 9-1-1 calls directly to the PSAP serving the location of the facility from which the 9-1-1 call is made.

Adoption of standards such as those in Rules may also establish grounds for civil claims and liability under state common law and statutes. The Rules should not limit a state's authority to determine civil liability or presumptions thereof, and any immunities therefrom, and any penalties for violation arising from violation of state MLTS 9-1-1 obligations.⁴

C. State and Local Authorities Must Have The Authority To Grant Waivers And Exceptions To Commission's MLTS 9-1-1 Rules.

BRETSA also notes that the Rules are not appropriate to all circumstances and jurisdictions across the country, and the Commission is neither a suitable nor a cost-effective forum to consider and grant waivers or exceptions on the scale that would be required to best serve public safety and the public interest. States, and local public safety officials with experience in PSAP operations and emergency response in their specific jurisdictions should make determinations as to whether exceptions or waivers to the Rules should be granted, and what conditions should be placed upon the grant of exceptions or waivers. The Commission must defer to the local experts in public safety as to those situations in which its Rules would in fact undermine the public safety.

Situations in which local public safety authorities might grant exceptions to the Rules include (i) memory care facilities, to permit all 9-1-1 calls to be initially routed to an internal location to avoid non-bona fide 9-1-1 calls tying up PSAP lines and First Responders, (ii) nursing homes and hospitals, which have their own medical personnel, and patients with living wills or DNR ("do not resuscitate") orders whose wishes may be violated if First Responders resuscitate the patient, (iii) industrial facilities which engage paramedics to provide on-site emergency response, and whose on-site location can speed response times and make the difference between life and death in cases of industrial accidents (such as amputations).

⁴ BRETSA believes any fines or forfeitures for violation of laws or rules related to 9-1-1 should be applied to make grants in support of 9-1-1 service.

Allowing state and local authorities to grant waivers or exceptions to the rules would also allow the waivers or exceptions to be conditioned on reasonable requirements under the specific circumstances involved, such as 24/7 monitoring of intercepted 9-1-1 calls, training requirements for personnel monitoring the calls and personnel responsible for responding to calls, notification of PSAPs regarding incidents, and the ability to connect fire, law, or other 9-1-1 calls requiring Emergency Response to the PSAP so the PSAP can speak directly to the caller.

States may wish to grant waivers or exceptions to grandfathering provisions. Commission-adopted standards for upgrade of MLTS systems to comply with the Rules may be appropriate in the National Capitol Region, with a perennially strong economy and tourist industry; but may be unreasonable in more economically depressed areas.

BRETSA would support the adoption of a requirement that an MLTS provide location information for each 7,000 square feet of (i) workspace or finished residential space, including common areas, and (ii) each separate structure or building served by an MLTS, and (iii) each floor of a multi-story building. States might choose to (i) exclude some entities from the Rules, such as governmental entities, (ii) adopt other size-standards, or (iii) include a requirement for interior ALI based on the number of separately secured areas served by an MLTS.

While parties in Commission wireless ALI proceedings casually toss about the term “kick in the door,” decisions to kick in doors are not so easily made as popular entertainment would suggest. Innocent civilians have been killed when SWAT teams have “kicked in” the wrong door, and as a result of swatting pranks. The responsible public safety agency is also responsible for repairs when First Responders kick in the wrong door. When First Responders encounter numerous separately secured units within a structure from which a call has been made and must

search for a caller who has become unresponsive (including the many suicidal callers, who may not want to be found), location of the caller can be *substantially* delayed.

State and local authority to grant waivers and exceptions to the Rules, subject to appropriate conditions, is the most pragmatic way of addressing the myriad situations in which strict application of the Rules would be contrary to the public safety and public interest.

D. Responsibility of MLTS Customers For Compliance With The Rules.

The Rules would make parties *engaged in the business of* installing, managing, manufacturing, importing, selling, leasing or operating an MLTS (“MLTS Providers”) responsible for compliance with the Rules. A company engaged in a business unrelated to the provision of configuration or operation of MLTS, but which purchases or leases an MLTS for its use would not ordinarily be considered to be *engaged in the business of* installing, managing or operating an MLTS. Yet these “MLTS Customers” may interfere with contractor or employee compliance with the Rules, or not engage contractors to update station locations for ALI purposes. MLTS Providers with superior knowledge of the Rules, will invariably include in their sales and service agreements indemnification provisions which will undermine the deterrent effect of penalties under the Rules.

Subject to waiver or exception under state law, the Rules should (i) make MLTS Customers responsible for compliance with the Rules to the extent the customer installs, maintains, operates and/or configures the MLTS, (ii) require MLTS customers provide necessary information to personnel or contractors for MLTS configuration and updating station location data, (iii) require MLTS Providers supply a copy of the Rules to each Customer, and (iv) prohibit MLTS Providers from requiring Customers indemnify them against liability for Rule violations.⁵

⁵ States must also have authority waive this requirement should they deem it appropriate.

II. The Commission Should Issue A Separate Notice of Inquiry or Notice of Proposed Rulemaking to Address BYOD and 9-1-1.

The Rules do not address direct delivery of 9-1-1 calls to the appropriate PSAP and delivery of station or device location in the context of “BYOD” (“Bring Your Own Device”) policies and practices, in which employees bring a personal device into the workplace for use in their work, and connect it to an employer MLTS or other network. These devices may be used in place of MLTS stations for calls to 9-1-1. BRETSA respectfully submits the Commission should open a proceeding to determine how BYOD affects 9-1-1 call routing and 9-1-1 ALI.

III. Other Issues With MLTS: Impacts On 9-1-1 Funding.

PSAPs in Colorado and other states are seeing decreases in total 9-1-1 surcharge, fee and tax (“9-1-1 Fee”) remittances, for which they are unable to determine the cause. BRETSA understands that with traditional MLTS systems served by trunks, a 9-1-1 Fee was collected and remitted for each line derived from the trunks subscribed to the MLTS.

MLTS are increasingly connected to digital broadband transmission facilities (fiber) with a number of voice channels derived from a single broadband connection. The bandwidth and the number of voice channels which *can be* derived is driven more by the equipment connected to the fiber than by the number of strands of fiber provided. It is unclear how providers calculate the amount of 9-1-1 Fees to be collected and remitted on digital broadband facilities serving MLTS, or if there is even consistency among providers in the manner in which they calculate the amounts to be remitted.

Commission inquiry into the manner in which various providers determine the appropriate 9-1-1 Fees to collect and remit on a digital broadband facility connected to an MLTS, and technological alternatives to determine the number of voice channels derived from such a broadband facility, would help to inform industry, the 9-1-1 community and the states as

to whether the migration to IP MLTS is affecting the amount of 9-1-1 Fees remitted, alternatives for determining the amount of 9-1-1 Fees which should be remitted, and whether amendment of state laws providing for 9-1-1 Fees is necessary.

IV. Recommended Changes To The Proposed MLTS 9-1-1 Rules.

BRETSA recommends the following changes to the Rules and certain other rules relevant to 9-1-1:⁶

§9.3 Definitions

911 calls. Any call for service initiated by an end user by dialing through the use of the code 911 or another code or address established for the purpose of accessing an emergency service provider. For wireless carriers, all 911 calls include those they are required to transmit pursuant to subpart C of this part.

The proposed change in the definition of “911 call” would include the use of codes other than “911,” as well as codes or addresses to route other format messages to a PSAP serving the caller’s or sender’s location. BRETSA understand that wireless carriers route calls to international equivalents of “9-1-1” to the PSAP serving the caller’s location.

Automatic Location Information (ALI). Information transmitted while providing E911 service that permits emergency service providers to identify the ~~geographic~~ location of the calling party by geographic coordinates or civic address, in some contexts including location within the interior of a structure.

Configured. The settings or configurations for a particular MLTS installation have been implemented so that the MLTS is fully capable when installed of direct dialing of 911 directly without a requirement of first dialing or entering an additional digit, code, prefix, or post-fix, including any trunk-access code such as the digit 9, and providing MLTS notification as required under the statute and rules. This does not preclude the inclusion of additional dialing patterns to reach 911. However, if the system is configured with these additional dialing patterns, they must be in addition to the default direct dialing pattern.

⁶ Deletions are shown by strike-through, and additions are underlined.

The defined term in the Rules is “MLTS notification.”

Dispatchable location. A location delivered to the PSAP with a 911 call that consists of the street address of the calling party, plus additional verified information such as suite, apartment or similar information necessary to adequately identify the location of the calling party within the structures at such street address.

The proposed change clarifies that the “additional information” is intended to identify the caller’s interior location, and must be verified.

MLTS Notification. An MLTS feature that can send notice that a call has been placed to “9-1-1” from and MLTS station, to a central location at the facility where the system is installed or to another person or organization regardless of location. Examples of notification include ~~screen pops~~ conspicuous on-screen messages with audible alarms for security desk computers using a client application, text messages for smartphones, and email for administrators. Notification shall include, at a minimum, the following information: (1) ~~the fact~~ that a 911 call has been made, (2) a valid callback number, and (3) the information about the caller’s location that the MLTS conveys to the public safety answering point (PSAP) with the call to 911.

Public safety answering point or PSAP. An answering point that has been designated to receive 911 calls originating within a specific area or jurisdiction and route them to emergency services personnel.

The proposed revision to the definition of a PSAP is intended to reflect that PSAPs are designated to receive calls from specific areas.

Real-Time Text (RTT). ~~Session-based text~~Text communications that are transmitted over Internet Protocol (IP) networks immediately as they are created, e.g., on a character-by-character basis.

Station. A station equipped to engage in radio communication or radio transmission of energy (47 U.S.C. 153(k)). In the context of MLTS, a station is a device connected to the MLTS through which calls can be placed and received.

§ 9.15 Applicability.

The rules in this subpart F apply to:

(a) A person engaged in the business of manufacturing, importing, selling, or leasing multi-line telephone systems;

(b) A person engaged in the business of installing, managing, or operating multi-line telephone systems;

(c) A person not engaged in the business of manufacturing, importing, selling, leasing, installing, managing, or operating multiline telephone systems, who purchases or leases a multiline telephone system for its use, installs, configures, manages or operates such system or contracts with a third party to install, configure, manage or operate such system in accordance with its instructions.

~~(d)(e)~~ Any multi-line telephone system that is manufactured, imported, offered for first sale or lease, first sold or leased, or installed after February 16, 2020.

§ 9.16 General Obligations – direct 911 dialing, notification and dispatchable location.

(b) Obligation of installers, operators and managers.

(2) A person engaged in the business of installing, managing, or operating multi-line telephone systems shall, in installing, managing, or operating such a system for use in the United States, configure the system to provide MLTS notification ~~a notification to a central location at the facility where the system is installed or to another person or organization regardless of location~~, if the system is able to be configured to provide the MLTS notification without an improvement to the hardware or software of the system. The MLTS notification must be contemporaneous with the 911 call and must not delay the call to 9-1-1.

(3) A person engaged in the business of installing, managing, or operating multi-line telephone systems may not install, manage, or operate such a system in the United States unless it is configured such that the dispatchable location of the caller is conveyed to the PSAP with 911 calls, and the person has provided a copy of the Commission's MLTS 911 rules to the MLTS customer prior to customer's execution of the agreement for the product or service to be provided.

(4) A person engaged in the business of installing, managing, or operating multi-line telephone systems may not install, manage, or operate such a system in the United States if its sales or service agreement with the customer requires the customer to provide

§ 9.17 – Enforcement, Compliance date, State law.

(d) States may grant waivers or exceptions to these rules pursuant to rulemaking or adjudication in accordance with the state administrative procedure act, or pursuant to statute.

(f) Civil liability for violations of these rules, or immunity therefrom, shall
be determined pursuant to state common or statutory law.

**BOULDER REGIONAL EMERGENCY
TELEPHONE SERVICE AUTHORITY**

Its Attorney

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